

Docket No.: JAEC-10213
Application No.: 10/810,478
Amendment Date: December 13, 2005
Reply of Office Action of: September 20, 2005

REMARKS

Claims 15-41 are currently pending in the application. Applicant has canceled claims 1-14, and amended claims 15, 20-21, 23, 25-27, and 29-30, and added claims 31-41. Applicant requests reconsideration of the application in light of the following remarks.

Telephone Interview

Applicant's attorney wishes to thank the Examiner for his courtesy and time during a telephone interview that was held on Thursday, December 1, 2005. The Examiner's comments and insight were very helpful in preparing this response. It is believed that the comments below reflect the spirit of the interview. In particular, the Examiner indicated that reciting sufficient structure of the vehicle body and including the body receivers extending out of a side of the vehicle would provide patentability, pending update of the search. Accordingly, each of the base claims 15, 31, and 36 have been amended to overcome the prior art.

Accordingly, **the Prior Art now falls short:**

(1) None of the references alone or in combination teaches or suggests a horizontally opening body receiver that has been originally formed as part of a framework of structural members that are a structural part of the vehicle in which it resides. None of the prior art suggests a horizontal body receiver that "opens out through a side wall of the vehicle body", as now recited in claim 15.

(2) The prior art does not show or suggest an "assembly of structural frame members" having structure that forms a plurality of body receivers, "the body receivers extending longitudinally in generally horizontal directions transverse to the fore and aft direction", "the body receivers are formed in the structural frame members of the vehicle body", and "the body receivers are not added onto of the vehicle body" as now recited in claim 31.

(3) None of the references has a “framework of structural tubular members” with “structural tubular members extending longitudinally in a fore and aft direction and in at least one direction transverse to the fore and aft direction forming an assembly of the structural tubular members”, and “the structural tubular members having structure forming at least one body receiver ... extending longitudinally in a direction other than a generally vertical direction, wherein the body receiver extends in the transverse direction and opens out of a side wall of the vehicle body”, as recited in new claim 36.

Advantages of the Present Invention

There are several advantages to providing a horizontally opening socket that are part of the vehicle body and which extend outwardly through the vehicle body. Particular strength advantages are achieved by horizontally opening sockets of the present invention. Also, it was pointed out that functionally the present invention is very distinct from the art relied upon. For example, the art relied upon could not enable receipt and use of all the accessories that the present application enables. Width extensions are not enabled by the prior art, and several side mounted applications were not shown or suggested by the prior art. It was noted in the interview that it appeared that the challenge was mainly in finding language to distinguish the unique matter of the present invention. The Examiner stated that the amendments would need to be supported by the original disclosure.

Amendments Supported by the Original Disclosure

Claim 15 now recites fore and aft direction, a body receiver transverse and horizontal to the fore and aft direction, and that the body receiver opens out through a side wall of the vehicle body.

General support for this recitation is found in the paragraph starting at page 7, line 16 which describes an assembly of frame members extending in fore and aft directions and transverse directions including horizontal directions. The transverse horizontal frame members form body receivers that open outwardly in a lateral direction, as shown in Figures 2 and 9-10B. The body receivers provided by the transverse members open outward in a lateral or side direction for receiving horizontal elements as set forth on page 8, lines 1-2. The same construction principles and strength and structural integrity are applied to the embodiment of Figures 9 and 10B as are applied to the embodiments of Figures 1-8 and 10A as may be appreciated from the disclosure of page 15, lines 7-10.

Specific support is found in the paragraph starting on page 15, line 2. This paragraph describes horizontally oriented receivers and vertically oriented receivers. Page 15, lines 7-10 state that the receivers open out through channel 82. Page 13, lines 10-19 describe the utility truck bed of the present invention as having side walls and that the "transversely extending frame members 76 are tubular frame members that extend substantially completely through the box side walls 78". These longitudinally transverse tubular frame members extend out through "[l]aterally outward upper edges 80 of the box side walls 78 [that] form channels 82" so that the body receivers formed by the longitudinally transverse tubular frame members open out through the side wall of the vehicle body as now claimed.

Claim 31 recites "forming a plurality of body receivers in the vehicle body" and that "the body receivers extending longitudinally in generally horizontal directions transverse to the fore and aft direction. These features are supported by the original disclosure as set forth in the paragraphs immediately above since the receivers are always disclosed as being "a plurality".

Claim 31 also recites that "the body receivers are formed in the structural frame members of the vehicle body." This is clearly met as the disclosure clearly describes the fore and aft, and transverse frame members as an assembly of frame members. On page 10, lines 5-9, the original disclosure states that for the frame, for example, a skin may be added to an

exterior of these frame members, or they may be left uncovered. A skin or sheet material is shown added to the vehicles of Figures 9, 10A, and 10B,

Specific support for the “body receivers” being “formed in the structural members of the vehicle body” of new claim 31 is found in the paragraph starting on page 13, line 10 which describes side walls 78 and the relationship of the fore and aft, and transverse extending frame members relative to the side walls 78. In particular, “the transversely extending frame members 76 ... extend substantially completely through the box side walls 78.” The transversely extending frame members extend through channels 82 that form upper edges of the box side walls 78. Page 15, lines 7-10 refer to the embodiment of Figures 1-8 and 10A with regard to the horizontal receivers 107, vertical receivers 109, and the channel 82 with reference to providing “greater strength and structural integrity” so that we can see that the same principles of construction are applied to all of the vehicle body embodiments. Thus, the frame members form part of the vehicle structure or are “structural frame members of the vehicle body”. By the same token, “the body receivers are not added onto of the vehicle body” in any of the embodiments shown in the figures, but are formed integrally with the vehicle body. As such the recitation of claim 31 is clearly supported by the original disclosure.

Claim 36 is also supported by the original disclosure. Claim 36 recites: “a vehicle body including a framework of structural tubular members, the structural tubular members extending longitudinally in a fore and aft direction and in at least one direction transverse to the fore and aft direction forming an assembly of the structural tubular members”. This recitation is supported as set forth in the paragraphs immediately above, and specifically with reference to “tubular” as disclosed on page 13, lines 10-19.

Claim 36 also recites: the structural tubular members having structure forming at least one body receiver in the vehicle body and extending longitudinally in a direction other than a generally vertical direction”. The original specification supports this recitation because it clearly describes the transverse frame members opening out through the side of a chassis or

Docket No.: JAEC-10213
Application No.: 10/810,478
Amendment Date: December 13, 2005
Reply of Office Action of: September 20, 2005

body and inserts received in the openings such that the openings, at least in part, form body receivers that receive the inserts. (See, for example, page 14, lines 19-25.)

The recitation of “wherein the body receiver extends in the transverse direction and opens out of a side wall of the vehicle body” is supported by the original specification as set forth in the paragraphs immediately above.

Restriction Requirement

Applicants affirm the provisional election of Group III, claims 15-30, made during an amendment filed August 8, 2005. The election is made with traverse on the basis that it appears that by the above provisional election, the Examiner would be required to search in each and every class and subclass as he would for each of the other non-elected embodiments. However, claims 1-15 have been canceled to expedite allowance of the present application. Claims 22-26 have been kept in the case for consideration once independent claim 15 is allowed, since claims 22-26 depend from claim 15. No correction to the inventorship is required since there is only one inventor.

Rejections under 35 U.S.C. §112

Claims 20-21, 27 and 29-30 stand rejected by the Examiner under 35 U.S.C. 112. In accordance with this rejection, the claims have been amended to comply with the examiner's suggestions and are now believed to conform with Section 112. Applicant respectfully requests that the rejection of claims 20-21, 27 and 29-30 under 35 U.S.C. § 112 be withdrawn.

Docket No.: JAEC-10213
Application No.: 10/810,478
Amendment Date: December 13, 2005
Reply of Office Action of: September 20, 2005

Rejections under 35 U.S.C. §102

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Brothers v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is contained in the claim. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

In General

None of the references has horizontally extending body receivers that are part of the body or structural frame of a vehicle. For Example, Gessay, in column 5, lines 15 to 23 states that the extension brackets 10 “can have second apertures (not shown) for securing the extension brackets 10 to the truck chassis frame with mechanical fasteners 13. Alternatively extension brackets 10 can be welded to the truck chassis frame”. Each of Russell, Vieira, and Curran have receivers that are added onto a bumper.

Specifically

Claims 15, 17-18 and 30 were rejected by the Examiner under 35 U.S.C. § 102(b) as being anticipated by Russell (U.S. Patent No. 5,433,356, hereinafter “Russell”). Applicant respectfully traverses this rejection and request reconsideration of the claims based on the remarks above and the current claim amendments.

Claims 15 and 16 were rejected by the Examiner under 35 U.S.C. § 102(b) as being anticipated by Curran (U.S. Patent No. 5,267,748, hereinafter “Curran”). Applicant respectfully traverses this rejection and request reconsideration of the claims based on the remarks above and the current claim amendments.

Claims 15, 19-20 and 27-28 were rejected by the Examiner under 35 U.S.C. § 102(b) as being anticipated by Vieira et al. (U.S. Patent No. 5,560,666, hereinafter “Vieira”). Applicant

Docket No.: JAEC-10213
Application No.: 10/810,478
Amendment Date: December 13, 2005
Reply of Office Action of: September 20, 2005

respectfully traverses this rejection and request reconsideration of the claims based on the remarks above and the current claim amendments.

Claims 15 and 19-21 were rejected by the Examiner under 35 U.S.C. § 102(b) as being anticipated by Gessay (U.S. Patent No. 6,099,061, hereinafter "Gessay"). Applicant respectfully traverses this rejection and request reconsideration of the claims based on the remarks above and the current claim amendments.

Claims 15 and 29 were rejected by the Examiner under 35 U.S.C. § 102(b) as being anticipated by Elonon (U.S. Patent No. 4,057,286, hereinafter "Elonon"). Applicant respectfully traverses this rejection and request reconsideration of the claims based on the remarks below and the current claim amendments.

The only art reference relied upon that has a non-vertically opening socket or receiver that may be considered to be part of the truck bed or structural frame is the patent to Elonon. However, the patent to Elonon has a socket 3 that is angled outwardly and upwardly so that the socket 3 opens in a direction that is not horizontal or vertical. Furthermore, the sockets 3 of Elonon form circular cylinders so that the log holding supports 1 may be rotatably supported in the sockets. Furthermore, Elonon does not have an assembly of structural tubular members with the members extending longitudinally in a fore and aft direction and in a direction transverse to the fore and aft direction as now claimed. Still further, Elonon does not have a socket extending out of a side wall of the vehicle as now required by the claims.

Applicant respectfully requests that the anticipation rejections of claims 15-30 be withdrawn. Specifically, claims 15, 31, and 36 are considered to be allowable for reasons set forth in the comments on the telephone interview above. Claims 16-30, 32-35, and 37-41 are considered allowable as depending from allowable base claims and for further patentable matter therein as may be appreciated by the Examiner.

Docket No.: JAEC-10213
Application No.: 10/810,478
Amendment Date: December 13, 2005
Reply of Office Action of: September 20, 2005

Regarding Doctrine of Equivalents

Applicant hereby declares that any amendments herein that are not specifically made for the purpose of patentability are made for other purposes, such as clarification, and that no such changes shall be construed as limiting the scope of the claims or the application of the Doctrine of Equivalents.

CONCLUSION

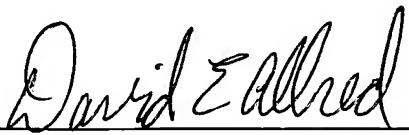
Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

The amendments herein deleted two independent claims and 12 dependent claims. The specification added two new independent and eleven new dependent claims, resulting in no fees due.

If any fees, including extension of time fees or additional claims fees, are due as a result of this response, please charge Deposit Account No. 19-0513. This authorization is intended to act as a constructive petition for an extension of time, should an extension of time be needed as a result of this response. The examiner is invited to telephone the undersigned if this would in any way advance the prosecution of this case.

Respectfully submitted,

Date: December 13, 2005

By 
David E. Allred
Reg. No. 47,254

SCHMEISER, OLSEN & WATTS LLP
18 East University Drive, #101
Mesa, AZ 85201
(480) 655-0073